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10/573,623

03/28/2006

Fumito Nishida

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT

PAPER NUMBER

1792

NOTIFICATION DATE

DELIVERY MODE

05/14/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents.admin@dowcorning.com



## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on July 25, 2008, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/573,623 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Response to Arguments***

2. The claim objections set forth in the prior Office action are withdrawn.
3. The obviousness-type double patenting rejections set forth in the prior Office action are withdrawn in view of the TD.
4. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Silicone rubber substrates are taught by both US '791 [0066, 0071] and US '474 [6:54] as noted in the prior Office action.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 1, 2, and 6-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,589,280 A in view of US 5,137,791 A or US 2003/0085474 A1.

A. These references are applied herein again as set forth in the prior Office action.

B. It is the Examiner's position that the CLTE of the substrate is a result-effective variable affecting the temperature ranges over which an electronic device produced according the process of the cited references can operate. As such, it would have been obvious to one skilled in the art to optimize this value by routine experimentation, absent evidence of criticality. See MPEP 2144.05.

C. With respect to claims 7-12, insofar as the composition of the silicone rubber affects this property and other physical properties, it would have been obvious to one skilled in the art to select a desired, appropriate composition. Further, as noted in the prior Office action and not expressly traversed by Applicant, it is the Examiner's position that these are conventional silicone rubber compounds and would have been readily obvious to one skilled in the art as expedients for providing the silicone rubber.

D. With respect to claims 13-14, as noted in the prior Office action, US '280 teaches a thickness of 30-2,000 nm [claim 16].

E. With respect to claims 15-16, while the claimed thicknesses are not expressly taught, the thickness of the metal layer is a result-effective variable affecting the durability of the film, the weight of the overall multi-layer structure, as well as production cost. As such, it would have been obvious to one skilled in

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the art to optimize this value by routine experimentation, absent evidence of criticality. See MPEP 2144.05.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Sunday, 5:00 AM - 12:00 PM and Monday through Friday, 5:00 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Phillip Fletcher III/  
Primary Examiner, Art Unit 1792

May 11, 2009